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Attorneys for Plaintiff
Jose N. Avila

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

JOSE N. AVILA,)	Case No.: 2:24-cv-00690-EJY
)	
Plaintiff,)	STIPULATION AND PROPOSED
)	ORDER FOR THE AWARD AND
vs.)	PAYMENT OF ATTORNEY FEES
)	AND EXPENSES PURSUANT TO
FRANK BISIGNANO ¹ ,)	THE EQUAL ACCESS TO JUSTICE
Commissioner of Social Security,)	ACT, 28 U.S.C. § 2412(d) AND
)	COSTS PURSUANT TO 28 U.S.C. §
Defendant.)	1920
)	
)	

¹ Frank Bisignano became Commissioner of Social Security on May 7, 2025. Pursuant to Rule 25(d) of the Federal Rules of Civil Procedure, Frank Bisignano should be substituted for Leland Dudek as the defendant in this suit. No further action need be taken to continue this suit by reason of the last sentence of section 205(g) of the Social Security Act, 42 U.S.C. § 405(g).

1 TO THE HONORABLE ELAYNA J. YOUCHAH, MAGISTRATE JUDGE
2 OF THE DISTRICT COURT:

3 IT IS HEREBY STIPULATED, by and between the parties through their
4 undersigned counsel, subject to the approval of the Court, that Jose N. Avila
5 (“Avila”) be awarded attorney fees in the amount of FORTY-EIGHT HUNDRED
6 dollars (\$4,800.00) under the Equal Access to Justice Act (EAJA), 28 U.S.C. §
7 2412(d), and no costs under 28 U.S.C. § 1920. This amount represents
8 compensation for all legal services rendered on behalf of Plaintiff by counsel in
9 connection with this civil action, in accordance with 28 U.S.C. §§ 1920; 2412(d).

10 After the Court issues an order for EAJA fees to Avila, the government will
11 consider the matter of Avila's assignment of EAJA fees to Marc Kalagian. The
12 retainer agreement containing the assignment is attached as exhibit 1. Pursuant to
13 *Astrue v. Ratliff*, 130 S.Ct. 2521, 2529 (2010), the ability to honor the assignment
14 will depend on whether the fees are subject to any offset allowed under the United
15 States Department of the Treasury's Offset Program. After the order for EAJA fees
16 is entered, the government will determine whether they are subject to any offset.

17 Fees shall be made payable to Avila, but if the Department of the Treasury
18 determines that Avila does not owe a federal debt, then the government shall cause
19 the payment of fees, expenses and costs to be made directly to Law Offices of
20 Lawrence D. Rohlfing, Inc., CPC, pursuant to the assignment executed by Avila.²
21 Any payments made shall be delivered to Law Offices of Lawrence D. Rohlfing,
22 Inc., CPC. Counsel agrees that any payment of costs may be made either by
23 electronic fund transfer (ETF) or by check.

24
25 ² The parties do not stipulate whether counsel for the plaintiff has a cognizable lien
26 under federal law against the recovery of EAJA fees that survives the Treasury
Offset Program.

1 This stipulation constitutes a compromise settlement of Avila's request for
2 EAJA attorney fees, and does not constitute an admission of liability on the part of
3 Defendant under the EAJA or otherwise. Payment of the agreed amount shall
4 constitute a complete release from, and bar to, any and all claims that Avila and/or
5 Marc Kalagian including Law Offices of Lawrence D. Rohlring, Inc., CPC, may
6 have relating to EAJA attorney fees in connection with this action.

7 This award is without prejudice to the rights of Marc Kalagian and/or the
8 Law Offices of Lawrence D. Rohlring, Inc., CPC, to seek Social Security Act
9 attorney fees under 42 U.S.C. § 406(b), subject to the savings clause provisions of
10 the EAJA.

11 DATE: May 16, 2025 Respectfully submitted,

12 LAW OFFICES OF LAWRENCE D. ROHLRING, INC., CPC

13 /s/ *Marc V. Kalagian*

14 BY: _____

15 Marc V. Kalagian
16 Attorney for plaintiff
17 JOSE N. AVILA

18 DATE: May 16, 2025

19 SIGAL CHATTAH
20 United States Attorney

21 /s/ *Jeffrey E. Staples*

22 JEFFREY E. STAPLES
23 Special Assistant United States Attorney
24 Attorneys for Defendant
25 FRANK BISIGNANO, Commissioner of Social
26 Security (Per e-mail authorization)

ORDER

Approved and so ordered:

DATE: May 19, 2025


THE HONORABLE ELAYNA J. YOUCHAK
UNITED STATES MAGISTRATE JUDGE